

46 Am. Jur. 2d Judges § 136

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Judges

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IX. Disqualification to Act in Particular Case

B. Grounds for Disqualification

4. Bias or Prejudice as Grounds for Disqualification

b. Appearance of Bias and Partiality as Grounds for Disqualification

§ 136. Business, political, or social relations of judge as grounds for disqualification

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  49(1), 49(2)

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[Consorting with, or maintaining social relations with, criminal figure as ground for disciplinary action against judge, 15 A.L.R.5th 923](#)

[Disqualification or recusal of prosecuting attorney because of relationship with alleged victim or victim's family, 12 A.L.R.5th 909](#)

Prejudice growing out of business, political, or social relations generally is insufficient to disqualify a judge.¹ Thus, recusal based on judicial bias is not required simply because of a business relationship or acquaintance with a party.² Disqualification generally has not been mandated simply because a judge knows socially one or more of the parties,³ particularly in rural districts, where it is not at all uncommon for a judge to have a friendly relationship with numerous members of the community, but to nevertheless adjudicate legal issues which arise among community members.⁴ A trial judge is a part of the society in the community in which he or she sits, just like any other citizen, and it is an inescapable fact of life that he or she will have had associations and friendships with parties coming before the court.⁵

On the other hand, there is authority that if social relations between a judge and a party are substantial enough to merit disclosure by the judge and invite a motion for recusal, then, when such a motion is made, the disclosing judge should, as a general rule, disqualify him- or herself.⁶ In addition, a judge should step aside or be removed from a case if a reasonable and objective observer would harbor serious doubts about the judge's impartiality; thus, disqualification is appropriate when a professional relationship between a judge and an individual involved in a proceeding, such as a witness or the alleged victim, could suggest to a reasonable person the existence of prejudice.⁷

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Footnotes

- 1 [536 Broad Street Corp. v. Valco Mortg. Co.](#), 135 N.J. Eq. 581, 39 A.2d 700 (Ch. 1944), order aff'd, 136 N.J. Eq. 513, 42 A.2d 704 (Ct. Err. & App. 1945).
The attorney for the defendant in a criminal proceeding failed to establish a basis for the disqualification of the court of common pleas judge, although the judge formerly worked for the victim's father as an assistant county prosecutor, where the attorney did not offer convincing evidence of a significant professional or personal relationship between the judge and the victim's father, or the victim, that would have suggested that the judge could have been tempted to depart from his expected judicial neutrality. [In re Disqualification of Winkler](#), 142 Ohio St. 3d 71, 2014-Ohio-5877, 28 N.E.3d 62 (2014).
In a capital murder case, the trial court did not err in striking the defendant's motion to disqualify the court and all judges at the courthouse based not on the assertion that the judge was personally biased against the defendant, but because the victim's mother was a paralegal or legal secretary, and her fianc was a criminal defense lawyer, and both were known to court personnel at the courthouse and had personal relationships with some of them. [People v. Panah](#), 35 Cal. 4th 395, 25 Cal. Rptr. 3d 672, 107 P.3d 790 (2005).
As to a judge's association with an organization or business as disqualifying, generally, see §§ 102 to 104.
As to a judge's political interests as disqualifying, generally, see § 110.
As to campaign contributions and support in this regard, see § 138.
- 2 [Youkers v. State](#), 400 S.W.3d 200 (Tex. App. Dallas 2013).
- 3 [Sears v. State](#), 262 Ga. 805, 426 S.E.2d 553 (1993) (disapproved of on other grounds by, [Brogdon v. State](#), 287 Ga. 528, 697 S.E.2d 211 (2010)).
- 4 [Donnell v. Donnell](#), 567 So. 2d 1143 (La. Ct. App. 2d Cir. 1990).
- 5 [Ex parte Hill](#), 508 So. 2d 269 (Ala. Civ. App. 1987); [Bixler v. State](#), 471 N.E.2d 1093 (Ind. 1984).
- 6 [Richard v. Richard](#), 146 Vt. 286, 501 A.2d 1190 (1985).
A judge may be properly disqualified if a party demonstrates the existence of bias or prejudice stemming from an extrajudicial source, such as a social or professional relationship. [Dahl v. Dahl](#), 2015 UT 79, 2015 WL 5098249 (Utah 2015).
As to the requirement that bias be extrajudicial, see § 127.
- 7 [In re Disqualification of Winkler](#), 142 Ohio St. 3d 71, 2014-Ohio-5877, 28 N.E.3d 62 (2014).